

Income/Franchise:

California FTB Summarizes Recent Federal Tax Law Changes and State Decoupling from CARES Act

Summary of Federal Income Tax Changes, Cal. FTB (1/14/21). The California Franchise Tax Board (FTB) issued its customary summary of recent federal income tax law changes as enacted prior to December 2020, including explanations on how California decouples from certain provisions under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act (*i.e.*, P.L. 116-136) involving Internal Revenue Code (IRC) sections 172 (*i.e.*, net operating loss (NOL) deductions), 163(j) (*i.e.*, business interest expense limitations), 461(l) (*i.e.*, excess loss limitations for taxpayers other than corporations), and 168(e) (*i.e.*, cost recovery for qualified improvement property (QIP)). In issuing this summary, the FTB notes that its analysis of federal tax laws enacted in the month of December 2020 “will be available in April 2021.”

URL: <https://www.ftb.ca.gov/about-ftb/data-reports-plans/Summary-of-Federal-Income-Tax-Changes/index.html>

Regarding NOLs, the FTB explains that California generally allows a taxpayer to calculate an NOL in accordance with federal tax rules, but it has *not* conformed to the federal changes that apply to taxable years beginning after December 31, 2017 because California generally conforms to the IRC as of January 1, 2015. Accordingly, NOLs attributable to taxable years beginning on or after January 1, 2008, may be carried forward twenty years; for NOLs attributable to taxable years beginning before January 1, 2013, and after December 31, 2018, NOL carrybacks are unavailable. Additionally, the FTB explains that California conforms to the federal NOL carryback rules for NOLs attributable to taxable years beginning on or after January 1, 2013, and before January 1, 2019, “with modifications.” The FTB also references AB 85 (2020) [see previously issued Multistate Tax Alert for details on this 2020 legislation], which includes provisions that suspend the use of NOL deductions for some businesses and incorporates extended carryover periods for NOL deductions disallowed under these provisions, and it explains that the federal 80% taxable income limitation is *not* applicable in California and any NOL arising in a taxable year beginning after December 31, 2017, and before January 1, 2021, may not be carried back. Please contact us with any questions.

URL: <https://www2.deloitte.com/us/en/pages/tax/articles/california-enacts-three-year-nol-suspension-and-business-tax-credit-limit.html?id=us:2em:3na:stm:awa:tax:021921&sfid=7011O0000038I9pQAA>

— Christopher Campbell (Los Angeles)
Principal
Deloitte Tax LLP
cwcampbell@deloitte.com

Kathy Freeman (Sacramento)
Managing Director
Deloitte Tax LLP
katfreeman@deloitte.com

Shirley Wei (Los Angeles)
Senior Manager
Deloitte Tax LLP
shiwei@deloitte.com

This document contains general information only and Deloitte is not, by means of this document, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This document is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this document.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee (“DTTL”), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as “Deloitte Global”) does not provide services to clients. In the United States, Deloitte refers to one or more of the US member firms of DTTL, their related entities that operate using the “Deloitte” name in the United States and their respective affiliates. Certain services may not be available to attest clients under the rules and regulations of public accounting. Please see www.deloitte.com/about to learn more about our global network of member firms.