

## Income/Franchise:

### Florida DOR Revises Guidance on State Conformity to Internal Revenue Code and Decoupling Provisions

*Tax Information Publication (TIP) No. 21C01-01R*, Fla. Dept. of Rev. (rev. 8/13/21). The Florida Department of Revenue (Department) issued revised guidance reflecting new law [see *H.B. 7059* and previously issued Multistate Tax Alert for more details on this 2021 legislation] that generally updates corporate income tax statutory references in Florida to conform to the Internal Revenue Code (IRC) provisions as in effect on January 1, 2021, but which also decouples from some federal tax provisions including those involving IRC sections 163(j) (*i.e.*, limitations on the deduction of business interest expenses), 168(e) (*i.e.*, qualified improvement property (QIP)), and 172 (*i.e.*, net operating loss (NOL) deductions). In doing so, the Department continues to explain that some taxpayers may have already filed a Florida corporate income/franchise tax return under a different basis than what is contained in this guidance, and if so, such taxpayers “should file Amended Florida Corporate Income/Franchise Tax Return(s), Form F-1120X, and explain the reason for the amendment.” Compared to the earlier version issued in July, the revised guidance attempts “to correct the explanation on the use of Florida net operating losses.” Specifically, the guidance provides the following regarding Florida NOLs:

**URL:** [https://floridarevenue.com/taxes/tips/Documents/TIP\\_21C01-01.pdf](https://floridarevenue.com/taxes/tips/Documents/TIP_21C01-01.pdf)

**URL:** <https://www.flsenate.gov/Session/Bill/2021/7059>

**URL:** <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mta-florida-updates-internal-revenue-code-conformity-while-decoupling-from-certain-federal-provisions.pdf>

- Florida NOLs generated in taxable years beginning before January 1, 2018, are carried forward up to 20 taxable years;
- Florida NOLs generated in taxable years beginning after December 31, 2017, are carried forward indefinitely until used and never expire;
- For taxable years beginning before January 1, 2021, a Florida NOL deduction may be taken against 100% of Florida tentative apportioned adjusted federal income; and
- For taxable years beginning after December 31, 2020, a Florida NOL deduction may be taken as follows:
  - First, any carryover(s) generated in a taxable year beginning before January 1, 2018, is applied against Florida tentative apportioned adjusted federal income; and
  - Then, any carryover(s) generated in a taxable year beginning after December 31, 2017, is applied against 80% of the remaining Florida tentative adjusted federal income.

Please contact us with any questions.

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