

Income/Franchise:

California FTB Reminds of Nonconformity to Extended Federal Statute of Limitations Period on NOL Carrybacks

Tax News – Reminder: California Statute of Limitations (SOL) for Net Operating Loss (NOL) Carrybacks, Cal. Fran. Tax Bd. (6/23). In its latest monthly “Tax News” issue, the California Franchise Tax Board (FTB) reminds taxpayers that California does *not* conform to the extended federal statute of limitations (SOL) period with respect to net operating loss (NOL) carrybacks. Specifically, under Internal Revenue Code (IRC) section 6501(h), for federal purposes only, taxpayers may file amended returns to claim an NOL carryback provided that the SOL period remains open for the tax year in which the NOL is generated; however, California does *not* conform to IRC section 6501(h) – “consequently, taxpayers may amend their returns to claim a NOL carryback only in cases where the statute of limitations is still open for the carryback year.” For California purposes, the SOL for filing a claim for refund generally is the later of:

URL: <https://www.ftb.ca.gov/about-ftb/newsroom/tax-news/index.html#article3>

- Four years after the date of a timely filed return, if filed within the extension period;
- Four years from the original due date of the return, determined without regard to extensions; or
- One year from the date of overpayment.

The FTB notes that this nonconformity does not impact NOLs claimed on current year tax returns because California only allowed NOL carrybacks generated in tax years 2013 through 2018. However, “it may continue to have practical application in cases where taxpayers are still able to amend 2018 returns which were filed within the extension period to report NOLs that were otherwise not claimed on the original return.”

Note, also, that in situations where a taxpayer believes it may be receiving additional NOL deductions pursuant to a federal or FTB audit, the taxpayer may want to consider filing protective refund claims while the California SOL is still open even though the audit is not yet complete. Please contact us with any questions.

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