

Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations - Corporations

1996

3805Q

Attach to your California tax return.

Corporation name as shown on the return

California corporation number

During the year the corporation incurred the NOL the corporation was a(n): [] C Corporation [] S Corporation [] Exempt Corporation [] Limited Liability Company (corporations only)

If the corporation previously filed California returns under another corporate name, enter the corporation name and California corporation number:

Note: If the corporation is included in a combined report of a unitary group, see instructions, General Information Section C.

PART I Computation of current year NOL. If you do not have a current year NOL, go to Part II.

- 1 Net loss for state purposes from Form 100, line 18; Form 109, line 2; or Form 100S, line 16. Enter as a positive number. 1
2 1996 disaster loss included in line 1. Enter as a positive number 2
3 Subtract line 2 from line 1. If zero or less enter -0- and see instructions 3
4 a Enter the amount of the loss incurred by a new business included in line 3 4a
b Enter the amount of the loss incurred by an eligible small business included in line 3. 4b
c Add line 4a and line 4b 4c
5 Subtract line 4c from line 3 5
6 General NOL. Multiply line 5 by 50% (.50) 6
7 1996 NOL carryover. Add line 2, line 4c and line 6. See instructions 7

PART II NOL carryover and disaster loss carryover limitations. See Instructions.

Table with 2 columns: Description and (g) Available Balance. Row 1: Net income (loss) - Enter the amount from Form 100, line 18; Form 109, line 2; or Form 100S, line 16 less line 17 (but not less than -0-)

Prior Year NOLs

Table with 8 columns: (a) Year of loss, (b) Code, (c) Type of NOL, (d) Initial loss, (e) Carryover from 1995, (f) Amount used in 1996, (g) Available Balance, (h) Carryover to 1997. Row 1: 2

Current Year NOLs

Table with 8 columns: (a) Year of loss, (b) Code, (c) Type of NOL, (d) Initial loss, (e) Carryover from 1995, (f) Amount used in 1996, (g) Available Balance, (h) Carryover to 1997. Row 1: 3 1996 16 DIS

Type of NOL: General (GEN), New Business (NB), Eligible Small Business (ESB), Title 11 (T11), or Disaster (DIS).

PART III 1996 NOL deduction

- 1 Total the amounts in column (f) for Part II, line 2, except current year disaster losses. 1
2 Enter the total amount from column (f) that represents disaster loss carryovers here and on Form 100, line 20; or Form 100S, line 19. For Form 109, enter -0-. 2
3 Subtract line 2 from line 1. Enter this amount on Form 100, line 19; Form 109, line 4; or Form 100S, line 18. 3

1996 Instructions for Form FTB 3805Q

Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations – Corporations

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 1993**, and to the California Revenue and Taxation Code (R&TC).

General Information

In general, California did not conform its law to changes made to the IRC by the federal Revenue Reconciliation Act of 1993 (Public Law 103-66). California legislation during 1994 and 1996 did adopt specific provisions of the 1993 federal changes and these provisions are specifically identified when appropriate. All other references are to the IRC as it existed on January 1, 1993.

A Purpose of Form

Use form FTB 3805Q to figure the current year NOL and to limit NOL and disaster loss carryover deductions.

The California NOL is figured the same way as the federal NOL, except that for California:

- An NOL may be carried over only to future years (no carrybacks are allowed); and
- The carryover period and percentages differ from federal allowances.

Only a portion of the NOL may be eligible for carryover to future years because California has established different categories of NOL. The following table shows the percentages and carryover periods for the various kinds of losses:

Type of NOL	NOL That Can Be Carried Over	Carryover Period
General NOL	50%	5 Years
New Business – 1/1/94		
NOL Incurred:		
Year 1	100%	8 Years
Year 2	100%	7 Years
Year 3	100%	6 Years
Eligible Small Business Gross receipts < \$1 million	100%	5 Years
Taxpayer in Title 11 Bankruptcy	50%	10 Years
Disaster Losses	100% 50%	5 Years 10 Years

B Apportioning Corporations

The loss carryover for a corporation that apportions income is the amount of the corporation's loss, if any, after adding income or loss apportioned to California to income or loss allocable to California under Chapter 17 of the Bank and Corporation Tax Law. The loss carryover may be deducted from income apportioned and allocable to California in subsequent years.

C Combined Reporting

Corporations that are members of a unitary group filing a single return must use intrastate apportionment, separately computing the loss carryover for each corporation in the group using their individual apportionment factors (R&TC Section 25108). Complete a separate

form FTB 3805Q for each taxpayer included in the combined report.

Unlike the loss treatment for a federal consolidated return, a California loss carryover for one member in a combined report may not be applied to the income of another member included in the combined report. Get FTB Pub. 1061, Guidelines for Corporations Filing a Combined Report, for more information.

D Water's-Edge

Each taxpayer's NOL carryover is limited to the amount determined by recomputing the income and factors of the original worldwide combined reporting group as if the water's-edge election had been in force for the year of the loss. The carryover may not be increased as a result of the recomputation.

E S Corporations

An S corporation is allowed to carry over a loss that is incurred during a year in which it has in effect a valid election to be treated as an S corporation. The loss is also passed through to the shareholders in the year incurred and is taken into account in determining each shareholder's NOL carryover, if any.

If a corporation changes from a C corporation to an S corporation, the loss incurred while the corporation was a C corporation may not be applied to offset income subject to the 1.5% tax imposed on an S corporation. However, losses incurred while the corporation was a C corporation may be applied against the built-in gains which is subject to tax. If the corporation incurred losses while it was a C corporation and an S corporation, the corporation must complete two forms FTB 3805Q and attach them to Form 100S, S Corporation Franchise or Income Tax Return. The unused losses incurred while the corporation was a C corporation are "unavailable" except as provided for above until the S corporation reverts back to a C corporation or the carryover period expires.

Specific Line Instructions

Part I

Use Part I of this form to figure the current year NOL, if any, eligible for carryover.

Line 1 – Enter the net loss from Form 100, line 18; Form 109, line 2; or Form 100S, line 16.

Line 2 – If the corporation incurred a disaster loss during 1996, enter the amount of the loss on this line. Enter as a positive number.

Line 3 – If the amount is zero or less the corporation does not have a current year general NOL. Go to Part II for computation of

carryovers and the current year NOL and carryover from disaster losses.

Line 7 – Go to Part II, Current Year NOLs, to record your 1996 NOL carryover to 1997. Complete columns (b), (c), (d) and (h) only, for each type of loss that you incurred.

If you have a business that qualifies as a new business or a small business and your NOL is greater than the amount of net loss from such a business, use the general NOL first. If you operate one or more new businesses and one or more eligible small businesses, determine the amount of the loss attributable to the new business(es) and to the small business(es). The NOL deduction will be taken in the following manner. The NOL is first treated as a new business NOL to the extent of the loss from the new business. Any remaining NOL is then treated as an eligible small business NOL to the extent of the loss from the eligible small business. Any further remaining NOL is treated as an NOL under the general rules.

Part II

Use Part II to limit loss carryover deductions to current year income and to record all of the corporation's loss carryover information.

If the corporation has losses from more than one source and/or more than one category, the corporation must compute the allowable NOL carryover for **each** loss separately.

When to use an NOL carryover – Use your NOLs in the order the losses were incurred. There is no requirement to deduct NOL carryovers before disaster loss carryovers.

Prior Year NOLs

Column (a) – Enter the year the loss was incurred.

Column (b) – If the loss is due to a disaster, enter the disaster code from the list on page 2. If the loss is from a New Business or Eligible Small Business, enter the Principal Business Activity Code from Question G on Form 100 or Question C on Form 100S. If the loss was from a pass-through entity, enter the entity's federal employer identification number from Schedule K-1.

Column (c) – Enter the type of loss from the following list:

General NOL carryover is the NOL available as a result of a loss incurred in years after 1986 under R&TC Section 24416. The carryover period for these NOLs is:

Year Loss was incurred	Carryover Period
1987-1990	7 Years
1991	6 Years
After 1991	5 Years

Note: If the corporation has a current year NOL loss under R&TC Section 24416.2 (relating to enterprise zone, program area, LAM-BRA or LARZ NOLs), it must **elect** to carry over the loss either under that section or the loss under R&TC Section 24416 (relating to general NOLs). The election is irrevocable. Get form FTB 3805Z, form FTB 3807 or form FTB 3806, for more information.

Disaster loss carryover is a casualty loss in a certain area of California declared by the President of the United States or the Governor of California to be in a state of disaster. California has conformed to IRC Section 165 (i) permitting the disaster loss to be taken against the previous year's income. If you made this election, see Current Year NOLs, Part II, line 3.

If special legislation is enacted under R&TC Section 24347.5 and the specified disaster loss exceeds income in the year it is claimed, 100% of the excess may be carried over for up to 5 income years. If any of the excess loss remains after the 5-year period, 50% of that remaining loss may be carried over for up to 10 additional years.

Following is a list of events that have been declared disasters:

Year	Code	Event
1996	16	Firestorms '96.
1995	15	Storms, flooding and other related casualties.
1994	14	San Luis Obispo fire and other related casualties.
1994	13	Los Angeles, Orange, and Ventura County Earthquake and related casualties.
1993	12	Storms, floods and other related casualties.
1992	11	Wildfires and other related casualties in Calaveras and Shasta Counties.
1992	10	San Bernardino County earthquake and other related casualties.
1992	9	Riots, arson and related casualties in California during April and May.
1992	8	Humboldt County earthquake and related casualties.
1992	7	Storms, floods and other related casualties.
1991	6	Oakland/Berkeley fire and other related casualties.
1990	5	Santa Barbara fires and other related casualties.
1989	4	Bay Area earthquake and other related casualties.
1987	3	Forest fires, October earthquake and other related casualties.
1986	2	Storms, floods, and other related casualties.
1985	1	Forest fires and related casualties occurring in California.

A new business NOL is an NOL incurred by a trade or business activity that first commenced in California on or after January 1, 1994. For taxable years beginning on or after January 1, 1994, taxpayers engaged in a new business may carry over 100% of an NOL incurred in the first three years of operation for an extended period but only to the extent of the net loss from the new business. If a taxpayer's NOL exceeds the net loss from the new business, the excess may be carried over at 50% as a general NOL.

The carryover period for new business NOLs is based on when the loss occurred.

Loss occurred	Carryover Period
1st year of business activity. . . .	8 years
2nd year of business activity. . . .	7 years
3rd year of business activity. . . .	6 years

If a taxpayer acquires assets of an existing trade or business which is doing business in California, the trade or business thereafter conducted by the taxpayer or related person is not a new business if the fair market value of the acquired assets exceeds 20% of the fair market value of the total assets of the trade or business conducted by the taxpayer or any related person. To determine whether the acquired assets exceed 20% of the total assets, include only the assets that continue to be used in the same trade or business activity as they were used in immediately prior to the acquisition. For this purpose, the same trade or business activity means the same division classification listed in the Standard Industrial Classification (SIC) manual, 1987 edition.

If a taxpayer or related person has been engaged in a trade or business in California within the preceding 36 months and thereafter commences an additional trade or business in this state, the additional trade or business qualifies as a new business only if the activity is classified under a different division of the Standard Industrial Classification (SIC) manual, 1987 edition.

For taxpayers who first commence doing business in this state after December 31, 1993, business activities conducted by the taxpayer or related persons wholly outside California are disregarded in determining whether the trade or business conducted within California is a new business. Related persons are defined in IRC Section 267 or IRC Section 318.

An eligible small business NOL is an NOL incurred in operating a trade or business activity which generates gross receipts less returns and allowances less than \$1 million during the income year. For income years beginning on or after January 1, 1994, taxpayers engaged in an eligible small business may carry over 100% of an NOL but only to the extent of the net loss from an eligible small business. If a taxpayer's NOL exceeds the net loss from an eligible small business the excess may be carried over at 50% as a general NOL.

The carryover period for an eligible small business NOL is five years.

Title 11 bankruptcy

If the corporation is claiming an NOL carryover deduction under the provisions of R&TC Section 24416(e)(4)(A), enter the carryover amount on Side 1, Part II, line 2.

Column (d) – Enter the amount of the initial loss for the year given in column (a).

Column (e) – Enter the carryover amount from the 1995 form FTB 3805Q, Part II, column (h).

Column (f) – Enter the smaller of the amount in column (e) or the amount in column (g) of the previous line.

Column (g) – Enter the result of subtracting column (f) from the balance in column (g) of the previous line.

Column (h) – Subtract the amount in column (f) from the amount in column (e) and enter the result.

Current Year NOLs

Line 3, Column (d) – Enter your 1996 disaster loss from Part I, line 2. If you did not elect to deduct your disaster loss in the prior year:

- In column (f), enter the disaster loss used in 1996.
- In column (h), enter column (d) less column (f).

If you elected to deduct your 1996 disaster loss on your 1995 return, and you have an excess amount to be carried over to 1996, enter the carryover amount from your 1995 form FTB 3805Q, Part II, line 3, in Part II, line 2, column (e). Use the Prior Year NOL instructions on page 1 for column (a) through column (h) except:

- In column (a), enter 1996;
- In column (b), enter 16; and
- In column (d), enter the total disaster loss incurred in 1996.

Line 4 – Enter your 1996 NOL from Part I, line 3. If you have a current year NOL from more than one source, list each loss separately. Enter the initial loss to be carried over to subsequent years in column (d) and column (h) for each NOL.