

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

1997

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 Organization [] 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 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 1997 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 1997 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 1 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-). (g) Available Balance

Prior Year NOLs

Table with 8 columns: (a) Year of loss, (b) Code, (c) Type of NOL, (d) Initial loss, (e) Carryover from 1996, (f) Amount used in 1997, (g) Available Balance, (h) Carryover to 1998. 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 1996, (f) Amount used in 1997, (g) Available Balance, (h) Carryover to 1998. Rows: 3 1997 DIS, 4 1997, 1997, 1997, 1997

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

PART III 1997 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 21; or Form 100S, line 20. 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



1997 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, 1997**, and to the California Revenue and Taxation Code (R&TC).

General Information

Due to California legislation enacted in 1997, California tax law conforms to the Internal Revenue Code as of January 1, 1997 and to specific provisions of the Taxpayer's Relief Act of 1997.

Revised definition of "new business" – Effective January 1, 1997, the term "new business" includes any taxpayer engaged in biopharmaceutical activities or other biotechnology activities described in Codes 2833 to 2836 of the Standard Industrial Classification (SIC) Manual. It also includes any taxpayer that has not received regulatory approval for any product from the United States Food and Drug Administration.

A Purpose

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. Refer to General Information F.

Note: If the corporation has a current year NOL under R&TC Section 24416.2 (relating to EZ, LAMBRA 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.

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 with 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. Attach the form FTB 3805Q for **each** taxpayer member included in the combined report **BEHIND** the combined form FTB 3805Q for all members.

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 NOL 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, and the S corporation is using C corporation losses to offset its built-in gains, the corporation must complete two forms FTB 3805Q and attach them to Form 100S, California 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.

F Types of NOLs

The following table shows the types of NOL available, a description, and the percentages and carryover periods for each type of loss.

Type of NOL and Description	Year NOL Incurred	NOL Carried Over	Carryover Period
General NOL (GEN) Available as a result of a loss incurred in years after 1986 and allowed under R&TC Section 24416. Does not include losses incurred from activities that qualify as a new business or an eligible small business, an EZ, LARZ, LAMBRA or disaster loss.	1992-1997 1991 1987-1990	50% 50% 50%	5 Years 6 Years 7 Years
New Business NOL (NB) Get Legal Ruling 96-5 for more information. Incurred by a trade or business that first commenced in California on or after January 1, 1994. During the first three years of business, 100% of an NOL may be carried over for an extended period, but only to the extent of the net loss from the new business (see chart). If a taxpayer's NOL exceeds the net loss from the new business, the excess may be carried over as a general NOL. 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 (FMV) of the acquired assets exceeds 20% of the FMV 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 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 California, 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. 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 Sections 267 or 318.	Year of Operation Year 1 Year 2 Year 3	 100% 100% 100%	 8 Years 7 Years 6 Years

(continued on next page)

Type of NOL and Description (<i>continued</i>)	Year NOL Incurred	NOL Carried Over	Carryover Period
Eligible Small Business (ESB) Get Legal Ruling 96-5 for more information. Operates a trade or business activity that has gross receipts, less returns and allowances, of less than \$1 million during the income year. 100% of an NOL may be carried over, but only to the extent of the net loss from the 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.	Income Years Beginning on or After 1/1/94	100%	5 Years
Title 11 Bankruptcy (T11) 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.	1987-1993	50%	10 Years
Disaster Losses (DIS) Casualty losses in areas of California declared by the President of the United States or the Governor of California to be in a state of disaster. An election may be made under IRC 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 excess loss remains after the 5-year period, 50% of that remaining loss may be carried over for up to 10 additional income years.	See list in the Instructions for Part II	100% 50%	5 Years 10 Years

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 1997, 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 general NOL carryovers, the current year disaster loss and carryover from disaster losses.

Line 7 – Go to Part II, Current Year NOLs, to record your 1997 NOL carryover to 1998. 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 below. If the loss is from a new business or eligible small business, enter the principal business activity code from Question C on Form 100 or Form 100S. If the loss was from a pass-through entity, enter the entity's federal employer identification number from Schedule K-1 (100S).

Column (c) – Enter the type of NOL from the table in General Information F.

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

Year	Code	Event
1997	17	Disaster floods '96/97.
1996		
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.

*The carryover period is limited to 5 years at 50%, no special legislation was enacted.

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

Column (e) – Enter the carryover amount from the 1996 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 1997 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 1997.
- In column (h), enter column (d) less column (f).

If you elected to deduct your 1997 disaster loss on your 1996 return, and you have an excess amount to be carried over to 1997, enter the carryover amount from your 1996 form FTB 3805Q, Part II, line 3, in Part II, line 2, column (e). Use the Prior Year NOL instructions on the previous page for column (a) through column (h) except:

- In column (a), enter 1997;
- In column (b), enter 17; and
- In column (d), enter the total disaster loss incurred in 1997.

Line 4 – Enter your 1997 NOL from Part I, line 3. If you have different types of NOLs in the current year, list each type of loss separately. Enter the initial loss in column (d) and the loss to be carried over to subsequent years in column (h) for each NOL.