

Net Operating Loss (NOL) Computation and Limitation - Pierce's Disease

Attach to your California tax return.

Social security or California corporation number

Name(s) as shown on return

FEIN

- A. Check the appropriate box for your entity type: Individual, Estate, Trust, C corporation, S corporation, Exempt organization, Partnership, Limited liability company, Limited liability partnership

Secretary of State file number

B. Enter the address (actual location) where the area affected by Pierce's disease and its vectors is located:

Part I Computation of Current Year NOL and NOL Carryover - Farming Area Affected by Pierce's Disease and its Vectors (PDV) If you do not have a current year PDV NOL, go to Section C.

Section A1 - Current Year NOL - Individuals and Exempt Trusts

- 1 Adjusted gross income from 2002 Form 540, line 17 or 2002 Long Form 540NR, line 17. If negative, use brackets. Estates and trusts, begin on line 3
2 Itemized deductions or standard deduction from 2002 Form 540, line 18 or 2002 Long Form 540NR, line 18
3 a Combine line 1 and line 2. Estates and Trusts, enter taxable income, see instructions. If negative, use brackets. If positive, enter -0- here and on line 20 and do not complete the rest of Part I, Section A1. You do not have a current year NOL
3a
3b
3c
Note: Enter amounts on line 4 through line 26 as if they were all positive numbers. See instructions.
4 Nonbusiness capital losses
5 Nonbusiness capital gains. See instructions
6 If line 4 is more than line 5, enter the difference; otherwise, enter -0-
7 If line 4 is less than line 5, enter the difference; otherwise, enter -0-
8 Nonbusiness deductions
9 Nonbusiness income other than capital gains
10 Add line 7 and line 9
11 If line 8 is more than line 10, enter the difference; otherwise, enter -0-
12 If line 8 is less than line 10, enter the difference; otherwise, enter -0-
13 Business capital losses
14 Business capital gains. See instructions
15 Add line 12 and line 14
16 If line 13 is more than line 15, enter the difference; otherwise, enter -0-
17 Add line 6 and line 16
18 Enter the loss, if any, from line 8 of Schedule D (540). Estates and Trusts, enter the loss, if any, from line 9, column (c), of Schedule D (541). If you do not have a loss on that line (and do not have an R&TC Section 18152.5 exclusion), skip line 18 through line 23 and enter on line 24 the amount from line 17.
19 R&TC Section 18152.5 exclusion. Enter as a positive number
20 Subtract line 19 from line 18. If zero or less, enter -0-
21 Enter the loss, if any, from line 9 of Schedule D (540). Estates and Trusts, enter the loss, if any, from line 10 of Schedule D (541). Enter as a positive number
22 If line 20 is more than line 21, enter the difference; otherwise, enter -0-
23 If line 21 is more than line 20, enter the difference; otherwise, enter -0-
24 Subtract line 22 from line 17. If zero or less, enter -0-
25 Disaster loss carryovers from prior years. See instructions
26 Add line 11, line 19, line 23, line 24, and line 25
27 Combine line 3c and line 26. If more than zero, enter -0-. You do not have a current year NOL to carryover
28 Enter the total worldwide farming business loss (from within and outside California). See instructions
29 Enter the average apportionment percentage from Part II, Section A, line 4
30 Multiply line 28 by line 29. Enter the result here
31 Enter the smaller of line 27 or line 30 here and in Part I, Section C, line 2, column (e). This is your 2002 PDV NOL

Section A2 — Nonresidents and Part-Year Residents Only — Current Year California NOL

Note: Enter amounts on line 32 through line 37 as if they were all **positive** numbers.

32	Subtract Schedule CA (540NR), line 46 from Schedule CA (540NR), line 43. If the result is a loss, enter the amount here as a positive number. If the result is zero or more, enter -0- here and on line 38. Do not complete the rest of Section A2; you do not have a current year California NOL	32	_____
33	California disaster loss carryover amount from 2002 Schedule CA (540NR), line 21b, column B, plus net capital loss from 2002 Schedule CA (540NR), line 13, column E	33	_____
34	If line 32 is more than line 33, enter the difference; otherwise, enter -0-	34	_____
35	Enter the total worldwide farming business loss from within and outside California. See instructions	35	_____
36	Enter the average apportionment percentage from Part II, Section A, line 4	36	_____
37	Multiply line 35 by line 36. Enter the result here	37	_____
38	Enter the smaller of line 34 or line 37 here and in Part I, Section C, line 2, column (e). This is your 2002 California PDV NOL	38	_____

Section B Current Year NOL — Corporations

1	Net loss for state purposes from Form 100, line 19; Form 100W, line 19; Form 100S, combined amounts of line 16 and line 17; or Form 109, line 2. Enter as a positive number.	1	_____
2 a	2002 disaster loss included in line 1. Enter as a positive number	2a	_____
b	Nonbusiness income included in line 1. Enter as a negative number	2b	_____
c	Nonbusiness losses included in line 1. Enter as a positive number	2c	_____
d	Separate trade or business income included in line 1. Enter as a negative number	2d	_____
e	Separate trade or business losses included in line 1. Enter as a positive number	2e	_____
f	Combine line 2a through line 2e	2f	_____
3	Subtract line 2f from line 1. If zero or less, do not complete the rest of this section; the corporation does not have a current year NOL	3	_____
4	Enter the total worldwide farming business loss from within and outside California. See instructions	4	_____
5	Enter the average apportionment percentage from Part II, Section A, line 4	5	_____
6	Multiply line 4 by line 5. Enter the result here	6	_____
7	Enter the smaller of line 3 or line 6 here and in Part I, Section C, line 2, column (e). This is the corporation's 2002 PDV NOL	7	_____

Section C PDV NOL Carryover – Individuals, Exempt Trusts, or Corporations

	(a) Description	(b) Carryover from prior years	(c) Amount deducted this year	(d) Balance available to offset losses	(e) PDV NOL carryover to 2003
1	PDV NOL beginning in 2001		SUSPENDED		
2	PDV NOL beginning in 2002				
	Total PDV NOL carryover to 2003				

Part II Apportionment – Farming Area Affected by Pierce’s Disease and its Vectors (PDV)

Section A Loss Apportionment

Use Part II, Section A, if your business has net loss from sources within and outside a farming area affected by PDV

	(a) Total farming business within and outside California	(b) Total within an area affected by PDV	(c) Percentage area affected by PDV column (b) ÷ column (a)
PROPERTY FACTOR			
1 Average yearly value of owned real and tangible personal property used in the farming business (at original cost). See General Information C, for more information. Exclude property not connected with the business.			(c) Percentage area affected by PDV column (b) ÷ column (a)
Inventory			
Buildings			
Machinery and equipment			
Furniture and fixtures			
Delivery equipment			
Land			
Other tangible assets (attach schedule)			
Rented property used in the business. See General Information C, for more information			
Total property values			
PAYROLL FACTOR			
2 Employees’ wages, salaries, commissions, and other compensation related to farming business income.			
Total payroll			
3 Total percentage, sum of the percentages in column (c) .			
4 Average apportionment percentage (1/2 of line 3). Enter here and on form FTB 3805D, Part I, Section A1, line 29; Part I, Section A2, line 36; or Part I, Section B, line 5, as applicable			

Note: The average apportionment percentage shown above on Part II, Section A, line 4 represents the portion of the taxpayer’s total farming business that is attributable to activities conducted within the affected area. Those factors with zero balances in the totals of column (a) will not be included in the computation of the average apportionment percentage. For example, if the taxpayer does not have any payroll within or outside the affected area, then the average apportionment percentage would be computed by dividing line 3 by one instead of by two as normally instructed.

Instructions for Form FTB 3805D

Net Operating Loss (NOL) Computation and Limitation – Pierce’s Disease

What's New

For taxable years beginning in 2002 and 2003, California has suspended the Net Operating Loss (NOL) carryover deduction. Taxpayers may continue to compute and carryover an NOL during the suspension period. However, the deduction for disaster losses is not affected by the NOL suspension rules.

The carryover period for suspended losses is extended by two years for losses incurred before January 1, 2002, and by one year for losses incurred after January 1, 2002, and before January 1, 2003.

For taxable years beginning on or after January 1, 2002, the NOL allowed in computing the California taxable income of a nonresident or part-year resident is no longer limited by the amount of NOLs from all sources. Only your California sourced income and losses are considered in determining if you have a California NOL. For more information, get form FTB 3805V, Net Operating Loss (NOL) Computation and NOL Disaster Loss Limitations - Individuals, Estates, and Trusts, and form FTB 3805Q, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitation - Corporations.

Note: If your residency status changes from the time you generate the NOL carryover to the time you apply the NOL deduction, you will need to recompute the NOL carryover amount. For more information, get FTB Pub. 1100, Taxation of Nonresidents and Individuals Who Change Residency.

General Information

For taxable years beginning on or after January 1, 2001, and before January 1, 2003, farmers are allowed a deduction for losses sustained due to Pierce’s disease **and its vectors** (PDV) in California. This loss may create an NOL which can be carried forward for nine years at 100%. The PDV NOL can be deducted only against income apportioned to the area affected by Pierce’s disease and its vectors using a two-factor formula.

To claim these NOLs, the California Department of Food and Agriculture (CDFA) must confirm that a pest infestation has occurred due to Pierce’s disease and its vectors. For more information go to the CDFA Website www.cdfa.ca.gov or call (916) 322-2804.

PDV NOL Election. If the taxpayer wishes to claim PDV NOL, the taxpayer must **make an election**, on a timely filed tax return, to carry forward an NOL due to PDV. Once the election is made, no other type of NOL can be carried forward from that tax year. Taxpayers must elect and designate the carryover category on the original return for the year of a loss and file form FTB 3805D for each year in which an NOL deduction is being taken. The election is irrevocable.

Note: If a loss is defined as a disaster loss and that loss can also be treated as a PDV loss, the PDV loss amount must be reduced by the disaster loss amount.

S Corporations. Pierce’s disease NOLs incurred prior to becoming an S corporation cannot be used against S corporation income. However, an S corporation is allowed to deduct a Pierce’s disease NOL incurred after the “S” election is made. An S corporation may use the NOL as a deduction against income subject to the 1.5% entity-level tax (3.5% for financial S corporations). The expenses (and income) giving rise to the loss are also passed through to the shareholders in the year the loss is incurred.

A Purpose

Use this form to determine the correct amount of NOL that you can claim for losses sustained due to PDV. Attach form FTB 3805D to your California tax return.

B Definitions

Pierce’s disease. Pierce’s disease is a pathogen (a plant killing bacterium) which attacks a plant’s water-conducting tissues.

Vector. A vector is an insect that carries and transmits a disease-causing organism. The specific “vector” in Pierce’s disease is the glassy-winged sharpshooter.

Affected Area. The affected area is the taxpayer’s area confirmed by the CDFA as having a pest infestation resulting from Pierce’s disease and its vectors.

Farming Business Activities. Farming business activities are generally determined by the transactions and activities in the regular course of the farming trade or business as related to the production of crops, fruits, or other agricultural products or for the sustenance of livestock. For more information, see Title 18 Cal Code Reg. Section 25128.2.

C Determining the Loss

For taxable year 2002, compute your loss apportionment percentage using Part II, Section A. Then, complete Part I, Section A1, A2, or Section B. Enter the result on Part I, Section C, line 2, column (e).

The PDV NOL deduction is that portion of a taxpayer’s farming business loss which is attributable to the affected area. PDV NOL can offset only farming business income attributable to the affected area.

Note: For purpose of the limitations on the deductibility of the PDV NOL in later years, the computation of eligible farming business income apportioned to an affected area is different than the computation of eligible farming business loss apportioned to the affected area in the year the PDV NOL is created.

Farming business loss is apportioned to an affected area by multiplying the taxpayer’s total farming loss from all sources by a fraction, the numerator which is the PDV property factor plus the PDV payroll factor, and the denominator which is two.

Property Factor. For the purpose of determining the PDV NOL, property is defined as the average value of all real and tangible personal property owned or rented by the business and used in farming during the taxable year. Rented property is valued at eight times the net annual rental rate. The net annual rental rate for any item of rented property is the total rent paid for the property, less total annual sub-rental rates paid by subtenants.

When determining the **loss** apportionment on Part II, Section A, the **numerator** of the property factor is the average value of the taxpayer’s real and tangible personal property owned or rented and used within the affected area during the taxable year “column (b).”

The **denominator** of the property factor is the average value of all the taxpayer’s real and tangible personal property owned or rented and used in farming during the taxable year in all business operations “column (a).”

Payroll Factor. Payroll is defined as the total amount paid to the farming business’s employees for compensation for the production of farming business income during the taxable year. Compensation means wages, salaries, commissions, and any other form of remuneration paid directly to employees for personal services.

When determining the **loss** apportionment on Part II, Section A, the **numerator** of the payroll factor is the total amount paid for compensation by the taxpayer in an affected area during the taxable year.

The **denominator** of the payroll factor is the total compensation paid by the taxpayer in all farming business operations during the taxable year.

If a loss carryover is allowable for any taxable year after Pierce’s disease and its vectors has occurred, the affected area will be deemed to remain in existence for the purposes of computing the allowable loss.

Instructions for Part I — Computation of Current Year NOL and NOL Carryover

Individuals and exempt trusts with a current year loss should complete Section A1 or Section A2. Corporations with a current year loss should complete Section B.

Section A1 – Computation of Current Year NOL — Individuals and Exempt Trusts

Use this section to compute the PDV NOL to be carried over to future years by individuals and exempt trusts. Complete Section A1 **only** if you have a current year loss.

You must complete form FTB 3805V, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations – Individuals, Estates, and Trusts, before you can compute the allowable PDV loss.

To compute the PDV NOL, separate business income and deductions from nonbusiness income and deductions.

Line 3 – Estates or Trusts, enter the amount from your 2002 Form 541, line 20 or Form 109, line 14.

Line 4 through Line 7 – You may deduct nonbusiness capital losses up to the amount of nonbusiness capital gains. You may not deduct any excess of nonbusiness capital losses over nonbusiness capital gains.

Nonbusiness capital losses and gains are losses and gains from other than a trade or business. These include sales of stock, metals, and other appreciable assets as well as any recognized gain from the sale of your principal residence.

Note: Enter your nonbusiness capital gains without regard to any R&TC Section 18152.5 exclusion.

Line 8 – Enter deductions that are not related to a trade or business and are not related to your employment (such as taxes, medical expenses, alimony, charitable contributions, and your contributions to individual retirement plans). If you do not itemize your deductions, your nonbusiness deductions include the standard deduction. A casualty loss is considered a “business expense” regardless of whether it is connected with a trade or business; do not include it as a nonbusiness deduction.

Line 9 – Enter income that is not related to a trade or business (such as dividends, pensions, annuities, income from an endowment, or interest earned on investments).

Line 10 through Line 12 – You may subtract nonbusiness deductions only from nonbusiness income, including any nonbusiness capital gains that remain after deducting nonbusiness capital losses. If your nonbusiness deductions are larger than your nonbusiness income, you may not deduct the excess.

Line 13 through Line 16 – You may deduct business capital losses only up to the total of business capital gains and any nonbusiness capital gains that remain after deducting nonbusiness capital losses and other nonbusiness deductions.

Note: Enter your business capital gains without regard to any R&TC Section 18152.5 exclusion.

Line 19 – Enter the amount of gain from small business stock that you excluded from gross income under R&TC Section 18152.5 (enter as a positive number).

Line 25 – Enter the amount of your prior year disaster loss carryovers from Schedule CA (540 or 540NR) line 21b, column B or Form 541, line 15a.

Line 28 – The total worldwide farming loss is the farming business loss from all sources within and outside California. See Title 18 Cal Code Reg. Section 25128.2, for more information on agricultural activities.

Section A2 — Nonresidents and Part-Year Residents Only – Computation of Current Year California NOL

Nonresident and part-year residents should complete Part I, Section A2. If your residency status changes from the time you generate the NOL carryover to the time you apply the NOL deduction, you will need to recompute the NOL carryover amount. For more information, get FTB Pub. 1100, Taxation of Nonresidents and Individuals Who Change Residency.

Line 35 – The total worldwide farming loss is the farming business activity from all sources within and outside California. See Title 18 Cal Code Reg. Section 25128.2, for more information on agricultural activities.

Section B – Computation of Current Year NOL — Corporations

Use this section to compute the current year PDV NOL to be carried over to future years for corporations.

Line 2d and line 2e – Enter the amount of income or loss from separate trade or business that is not unitary with the farming business activity.

Line 4 – The total worldwide farming business loss is the farming business loss from all sources within and outside California. See Title 18 Cal Code Reg. Section 25128.2, for more information on agricultural activities. If the farming business is unitary with another non-farming business, farming business loss from all sources is that portion of the total unitary income or loss (before apportionment), which is attributable to farming.