

2020 Instructions for Form FTB 3461

California Limitation on Business Losses

What's New

Excess Business Loss Limitation – The federal Coronavirus Aid, Relief, and Economic Security (CARES) Act made amendments to Internal Revenue Code (IRC) Section 461(l) by eliminating the excess business loss limitation of noncorporate taxpayers for taxable year 2020 and retroactively removing the limitation for taxable years 2018 and 2019. California does not conform to those amendments. For taxable year 2020, complete form FTB 3461, California Limitation on Business Losses, if you are a noncorporate taxpayer and your net losses from all of your trades or businesses are more than \$259,000 (\$518,000 for married taxpayers filing a joint return).

General Information

A Purpose

Use form FTB 3461 to compute the excess business loss. For California purposes, any disallowed loss will be treated as a carryover excess business loss instead of an NOL carryover for the subsequent taxable year.

B Who Must File

File form FTB 3461 if you are a noncorporate taxpayer and your net losses from all of your trades or businesses are more than \$259,000 (\$518,000 for married taxpayers filing a joint return). A trust subject to tax under IRC Section 511 should complete form FTB 3461 if it has a loss attributable to its trade or business of more than \$259,000.

Attach form FTB 3461 to the applicable tax return you file.

- Form 540, California Resident Income Tax Return
- Form 540NR, California Nonresident or Part-Year Resident Income Tax Return
- Form 541, California Fiduciary Income Tax Return
- Form 541-QFT, California Income Tax Return for Qualified Funeral Trusts
- Form 109, California Exempt Organization Business Income Tax Return (applicable to trusts only)

C Definitions

Excess business loss – An excess business loss is the amount by which the total deductions from your trades or businesses are more than your total gross income or gains from your trades or businesses, plus the threshold amount.

Threshold amount – For taxable year 2020, the threshold amount is \$259,000 (\$518,000 for married taxpayers filing a joint return). These amounts are indexed for inflation.

Trade or business – An activity qualifies as a trade or business if your primary purpose for engaging in the activity is for income or profit and you are involved in the activity with continuity and regularity. The facts and circumstances of each case determine if an activity is a trade or business. The regularity of activities and transactions and the production of income are important elements. You do not need to actually make a profit to be in a trade or business as long as you have a profit motive. However, you do need to make ongoing efforts to further the interests of your business.

Note: If you own an interest in a partnership or S corporation, the trade or business determination is made at that entity's level.

D Ordering Rules

First apply the at-risk rules; next, apply the passive activity loss rules; and then apply the excess business loss rules. For more information, get the instructions for California form FTB 3801, Passive Activity Loss Limitations, federal Form 6198, At-Risk Limitations, and federal Pub. 925, Passive Activity and At-Risk Rules.

E Transition Rules

If you had losses or deductions that were limited under other provisions of the law in prior tax years, those losses or deductions are included in figuring the amount, if any, of your excess business loss in taxable year 2020.

Specific Line Instructions

Joint returns – Complete one form FTB 3461 containing all the information for both spouses.

Part I – Total Income/Loss Items

Use Part I to report all the income and losses reflected on your applicable tax return. If you are filing a return other than Form 540, see the instructions below for the specific line that is an equivalent to the line on Form 540. If the line instructions do not reference a form listed under Who Must File, then it is not applicable.

Line 1

Enter any wages, salaries, and tips reported on Schedule CA (540NR), California Adjustments – Nonresidents or Part-Year Residents, Part II, Section A, line 1, column E.

Line 2

Enter any business income or loss reported on Schedule CA (540NR), Part II, Section B, line 3, column E; or Form 541, line 3.

Line 3

Enter any capital gains or losses reported on Schedule CA (540NR), Part II, Section A, line 7, column E; Form 541, line 4; or Form 541-QFT, line 3.

Line 4

Enter any other gains or losses reported on Schedule CA (540NR), Part II, Section B, line 4, column E; Form 541, line 7; or Form 541-QFT, line 4.

Line 5

Enter any supplemental income or loss reported on federal Schedule E (Form 1040), Supplemental Income and Loss, such as income from rental real estate, royalties, partnerships, S corporations, estates, trusts, REMICs, etc. This is reported on Schedule CA (540NR), Part II, Section B, line 5, column E; Form 541, line 5; or Form 541-QFT, line 4.

Line 6

Enter any farm income or loss reported on Schedule CA (540NR), Part II, Section B, line 6, column E; Form 541, line 6; or Form 541-QFT, line 4.

Line 7

Enter any unemployment compensation reported on Schedule CA (540NR), Part II, Section B, line 7, column A minus column B.

Line 8

Enter any other trade or business income, gain, or loss not reported on line 1 through line 7 that you reported on your tax return.

Line 9

Combine all the entries from line 1 through line 8 on line 9. The resulting figure can be a positive or negative number.

Part II – Adjustment for Amounts not Attributable to Trade or Business

Use Part II to report the income, gain, or loss from your tax return that is not from a trade or business. The information will then be used to figure the excess business loss.

Line 10

Enter the combined amount of income or gain you reported on line 1 through line 8 that is not from a trade or business. If you filed a tax return other than a Form 540, see the specific line references for the tax return in the specific line instructions in Part I.

Line 11

Enter the combined amount of losses or deductions you reported on line 1 through line 8 that is not from a trade or business. If you filed a tax return other than a Form 540, see the specific line references for the tax return in the specific line instructions in Part I.

Important: Although losses and deductions usually are entered as negative figures on other forms or worksheets, enter them as a positive figure on this line.

Note: For amounts reported on Schedule D (540/540NR), California Capital Gain or Loss Adjustment, or Schedule D (541), Capital Gain or Loss, if form FTB 3461, line 3 is a loss limited to (\$3,000), determine the amount of the loss not from a trade or business as follows.

- If the loss from your trade or business is less than (\$3,000), enter the difference between (\$3,000) and your trade or business loss.
- Do not enter any loss amount on this line from Schedule D (540/540NR/541) if the loss from your trade or business is equal to or greater than (\$3,000).

Line 12

Subtract line 11 from line 10. The resulting figure is your gain or loss that is not from a trade or business. Use this amount in Part III to figure your excess business loss.

Part III – Limitation on Losses

Use Part III to apply the threshold limitation and figure the excess business loss.

Line 14a

Add line 9 and line 13. The resulting figure can be a positive or negative number.

Line 14b

Enter the amount from line 16 of your 2019 federal Form 461, Limitation on Business Losses, reflecting your excess business loss carryover using California amounts (i.e., following California law). Enter as a negative figure.

Line 14c

Add line 14a and line 14b. The resulting figure can be a positive or negative number.

Line 16

If the resulting figure on this line is a negative amount, then it is your excess business loss. Although it is a loss, you will report the excess business loss adjustment as a positive number on the applicable line of the following forms:

- Schedule CA (540), Part I, Section B, line 8f, column C.
- Schedule CA (540NR), Part II, Section B, line 8f, column C.
- Form 541, line 8.
- Form 541-QFT, line 4.
- Form 109, Part I, line 12 (applicable to trusts only).

For California purposes, any disallowed loss is treated as a carryover excess business loss instead of an NOL carryover for the subsequent taxable year.