

GENERAL INFORMATION

WHO SHOULD FILE THIS FORM?

This schedule should be completed for net operating losses being utilized in the current year and subsequent years.

New York City generally allows net operating losses to be used in the same manner as provided under Internal Revenue Code ("IRC") Section 172. However, for losses sustained during taxable years ending after June 30, 1989, only the first \$10,000 of loss in any taxable year may be carried back to preceding taxable periods as permitted under IRC Section 172. Any remaining NOL may be carried forward: for Loss years before 8/5/1997 there is a 15-year carry forward; for loss years beginning after 8/5/1997 there is a 20-year loss carry forward. Regulated Investment Companies and Real Estate Investment Trusts do not qualify for this Net Operating Loss Deduction.

Any net operating loss that may be carried back or forward for federal tax purposes must be adjusted to reflect the additions and subtractions required by Section 11-602(8)(f) of the NYC Administrative Code.

S Corporations are subject to the GCT in the same manner as C Corporations because New York City does not recognize a Federal or New York State S election. The net operating loss is computed as though the federal Subchapter S election had not been made. For information on S Corporation net operating loss carry backs see instructions to the NYC-3L, NYC-4S and NYC-4EZ.

If a corporation files a federal consolidated return, but for New York City purposes files a separate return rather than a combined return, that corporation must determine its eligibility for a net operating loss deduction by computing the deduction for New York City purposes as if it filed on a separate basis for federal purposes.

The New York City ("NYC") Net Operating Loss deduction is subject to three general statutory limitations: (1) any net operating loss must be adjusted to reflect the inclusions and exclusions from entire net income; (2) the deductions must not include any taxable year in which the taxpayer was not subject to the New York City tax; and (3) the deduction shall not exceed the federal net operating loss deduction for the period. See NYC Administrative Code section 11-602(8)(f). Note that as a result of clause (3), above, the NYC Net Operating Loss deduction will be subject to any applicable restrictions on the taxpayer's federal net operating loss limitations, including the federal "as if" net operating loss limitation provided in IRC section 382 and the federal Separate Return Limitation Year (SRLY) limitation set forth in Treasury Regulation section 1.1502-15.

SPECIFIC INSTRUCTIONS

SCHEDULE A - COLUMN BY COLUMN INSTRUCTIONS

NOTE: Include only net operating losses that are available for use in the current year. In any tax year where an NOL is generated, you may not have an NOL utilized except in the following situation. As more fully explained below, any NYC Net Operating Loss amount carried back to a previous year should be included in the year or period in which the Net Operating Loss was generated.

Column A

For fiscal year taxpayers insert the year in which the taxpayer's fiscal year began

Column B

Insert amount from federal Form 1120, line 28 or Form 1120F, Schedule

II, line 29. Taxpayers who have made the Subchapter S election insert amount from Form NYC-ATT-S-CORP, Part III, line C.

Column C

For taxpayers filing form NYC-3L, use the amount computed as follows: take the amount from Form NYC-3L, Schedule B, line 19 or 20, plus the amount from line 11. For taxpayers filing form NYC-4S, take the amount from Schedule B, line 8, plus the amount on line 6a. For taxpayers filing Form NYC-4S-EZ: a) those taxpayers who use Schedule B2, take the amount from line 6, plus the amount on line 4; and b) those taxpayers using Schedule B1, take the amount from line 3 and then add back the amount of any New York State net operating loss deduction used in computing the amounts on line 1 and 3.

Column D

Use the amount for the same period from Column C, as modified by any applicable federal net operating loss limitations such as the IRC section 382 limitations and the SRLY limitations.

Column E

Include the amount of the NYC Net Operating Loss utilized by the taxpayer in each of the years listed since the year generated. Any NYC Net Operating Loss amount carried back to a previous year should be reflected in Column E in the year or period in which the Net Operating Loss was generated. Except as indicated in the previous sentence, in any tax period in which an NYC NOL is generated, you may not have an NYC NOL utilized. Taxpayers must use the New York State net operating loss amount for the NYC Net Operating Loss generated and/or utilized for any tax periods in which they file Form NYC-4S-EZ, and use Schedule B1.

Column F

Only include the NYC Net Operating Loss expiring in the current tax period.

Column G

For the earliest year from which an NYC Net Operating Loss utilized in the current year is generated, the amount in Column G should be the same as the amount in Column D, unless the taxpayer has carried back an amount to a prior year in which case the amount in Column G is the amount in Column D, less the amount in Column E. For all subsequent years, except the current year, the amount in Column G is the amount in Column G for the immediately preceding year, plus the amount in Column D, less the amount, if any, in Column E. For the current year on line 21 of Schedule A, the amount in Column G is the amount in Column G for the immediately preceding year, plus the amount in Column D, less the amounts, if any, in Column E and/or Column F.

SCHEDULE B - NOL APPORTIONMENT TO INVESTMENT INCOME (if applicable)

Corporations that claim both business and investment income must apportion any Net operating Loss (NOL) deduction between business income and investment income. The amount apportioned to investment income is determined by multiplying the NOL deduction by a fraction. The numerator is the investment income before deducting any net operating loss. The denominator is entire net income before deducting any net operating loss. The fraction should be expressed as percentage with two decimal places.