



Department of the Treasury
Internal Revenue Service

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Supplement to Publication 536

Net Operating Losses (NOLs) for Individuals, Estates, and Trusts

For use in preparing
2001 Returns



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Introduction

After Publication 536 was printed, legislation was enacted to temporarily extend the carryback period for a net operating loss (NOL).

New 5-Year NOL Carryback

Carryback period. Under new law, if you have an NOL for a tax year ending during 2001 or 2002, you must generally carry back the entire amount of the NOL to the 5 tax years before the NOL year (the carryback period). However, you can still choose to carry back an NOL to the 2 (or 3, if applicable) years before the NOL year. Any remaining NOL can be carried forward for up to 20 years. You can also choose not to carry back an NOL and only carry it forward.

Return already filed. If you already filed your return for a tax year ending during 2001 or 2002 and did not apply the new 5-year carryback for an NOL, you have a limited opportunity to do so.

If you elected to forgo the carryback period. Individuals who elected to forgo the carryback period but now want to apply the 5-year carryback period can do so by filing either Form 1045, *Application for Tentative Refund*, or Form 1040X, *Amended U.S. Individual Income Tax Return*. Estates and trusts file Form 1045 or amended Form 1041, *U.S. Income Tax Return for Estates and Trusts*. Type or print across the top of the form "Revocation of NOL carryback waiver pursuant to Rev. Proc. 2002-40."

If you elected to forgo the carryback period and still want to forgo a carryback, do nothing. Your previous election applies to forgo the 5-year carryback period.

If you applied a 2 (or 3)-year carryback period. Individuals who applied a 2 (or 3)-year carryback period but now want to apply the 5-year carryback period can do so by filing either Form 1045 or Form 1040X. Estates and trusts file Form 1045 or amended Form 1041. Type or print across the top of the form "Amended refund claim pursuant to Rev. Proc. 2002-40."

If you applied a 2 (or 3)-year carryback period and still want to use that period, do nothing. You will be considered to have made an election to forgo the 5-year carryback period in favor of the 2 (or 3)-year carryback period.

If you neither elected to forgo the carryback period nor applied the 2 (or 3)-year carryback period. Individuals who neither elected to forgo the carryback period nor applied a 2 (or 3)-year period but now want to forgo the 5-year period and apply a 2 (or 3)-year period can do so by filing either Form 1045 or Form 1040X. Estates and trusts file Form 1045 or amended Form 1041. If you do not choose the 2 (or 3)-year period, the 5-year period will apply.

When to file. File the appropriate form by October 31, 2002.