

**DEPARTMENT OF TAXATION
2025 Fiscal Impact Statement**

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| <p>1. Patron Lamont Bagby</p> <p>3. Committee Senate Finance and Appropriations</p> <p>4. Title Corporate Income Tax: Work Group on
Virginia's Treatment of Net Operating Losses</p> | <p>2. Bill Number <u>SB 1426</u></p> <p>House of Origin:
<u> X </u> Introduced
<u> </u> Substitute
<u> </u> Engrossed</p> <p>Second House:
<u> </u> In Committee
<u> </u> Substitute
<u> </u> Enrolled</p> |
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5. Summary/Purpose:

This bill would define, for the purposes of the Virginia individual and corporate income tax, "net operating loss" as the excess of any allowable income tax deductions over the gross income used in computing entire net income. "Entire net income" would be defined as total net income from all sources, which is the same as the taxable income before net operating loss deduction and special deductions, that the taxpayer is required to report to the U.S. Department of the Treasury for purposes of the federal income taxes.

This bill would be effective for taxable years beginning on or after January 1, 2022, but before January 1, 2023.

6. Budget amendment necessary: No.

7. Fiscal Impact: Not available (See Line 8.)

8. Fiscal implications:

Administrative Costs

This bill would have an unknown impact on the Department of Taxation's administrative costs.

Revenue Impact

This bill would have an unknown General Fund revenue impact. It is unknown whether and to what extent this bill would change the existing treatment of net operating losses. It is further unknown what would be the effect of making this change on a retroactive basis for only one taxable year, Taxable Year 2022.

9. Specific agency or political subdivisions affected:

10. Technical amendment necessary: No.

11. Other comments:

Current Law

Under federal law, NOLs are the excess deductions that could not be applied in a taxable year because their totality exceeds taxable income. Entire net income means income before net operating loss deductions and other special deductions are applied.

Virginia conforms to the changes made to the net operating loss (NOL) deduction by the federal Tax Cuts and Jobs Act ("TCJA"). Virginia continues to deconform from the five-year carryback of certain federal NOL deductions generated in the 2008 or 2009 taxable years. In addition, Virginia continues to deconform from the temporary suspension of certain NOL limitations for Taxable Years 2018, 2019, and 2020 made by the Coronavirus Aid, Relief, and Economic Security ("CARES") Act.

Under Virginia law, federal taxable income must be modified for Virginia additions and subtractions. These additions and subtractions in a loss year follow the federal loss to the year the loss is used. Thus, if the federal NOL is fully used in carryback or carryover to one year, the entire net amount of additions and subtractions will be applied to such year. If, however, the federal net operating loss is partially used in each of several years, the net amount of additions and subtractions will be applied in the same ratio to the applicable years. This tracking of state additions and subtractions to applicable years is unique to Virginia and can be difficult, especially for taxpayers with complex corporate structures.

Proposal

This bill would define, for the purposes of the Virginia individual and corporate income tax, the "net operating loss" as the excess of any allowable income tax deductions over the gross income used in computing entire net income. "Entire net income" would be defined as total net income from all sources, which is the same as the taxable income before net operating loss deduction and special deductions, that the taxpayer is required to report to the U.S. Department of the Treasury for purposes of the federal income taxes.

This bill would be effective for taxable years beginning on or after January 1, 2022, but before January 1, 2023.

Similar Bills

HB 2681 would create a workgroup to study the treatment of net operating losses for Virginia income tax purposes and make recommendations to the General Assembly regarding simplification.

cc : Secretary of Finance

Date: 01/27/2025 JLOF
SB1426F161