

DEPARTMENT OF TAXATION 2025 Fiscal Impact Statement

1. **Patron** Jason S. Ballard

3. **Committee** Senate Finance and Appropriations

4. **Title** Corporate Income Tax: Work Group on
Virginia's Treatment of Net Operating Losses

2. **Bill Number** HB 2681

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 X **In Committee**

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would require the Department to convene a workgroup to study Virginia's treatment of net operating losses ("NOLs") compared to other states and make recommendations.

If enacted during the regular session of the 2025 General Assembly, this bill would become effective July 1, 2025.

6. Budget amendment necessary: No.

7. No Fiscal Impact: (See Line 8.)

8. Fiscal implications:

Administrative Costs

The Department considers implementation of this bill as routine and does not require additional funding.

Revenue Impact

This bill would have no impact on General Fund revenue.

9. Specific agency or political subdivisions affected:

Department of Taxation

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 require the Department to convene a workgroup to study Virginia's treatment of NOLs compared to other states and make recommendations.

The work group would be required to be composed of tax practitioners experienced in the preparation of corporate tax returns involving NOLs, including members selected by the Taxation Section of the Virginia Bar Association and the Virginia Society of Certified Public Accountants ("VSCPA").

At a minimum, the work group would be required to consider transition rules to the proposed simplified method of determining NOLs, the effective date of any such transition, and whether the transition should be effectuated through legislation, regulation, or guidelines.

The work group would be required to complete its meetings by October 1, 2025 and the Department would be required to submit a report of the work group's findings and recommendations to the Chairmen of the House Committee on Finance, the House Committee on Appropriations, and the Senate Committee on Finance and Appropriations by November 1, 2025.

cc : Secretary of Finance

Date: 02/06/2025 JLOF
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